

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF REVENUE  
DIVISION OF LOCAL SERVICES**

Property Tax Bureau  
Informational Guideline Release **No. 93-207**  
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**PROPERTY TAX INCREASE FOR WATER AND SEWER DEBT COSTS**

Chapter 110, S.S. 111, 113, 114 and 116 of the Acts of 1993  
(Adding G.L. Ch. 59 S. 5 Cl. 52 and S. 21C(n))

**SUMMARY:**

This legislation authorizes a new debt exclusion under Proposition 2½, General Laws Chapter 59 §21C(n), which will let a city or town transfer the recovery of water and sewer debt service costs from user charges to the property tax levy. The municipality will be able to raise the additional taxes outside its levy limit under Proposition 2½ and it will have to reduce its water and sewer charges by the amount of the debt service being transferred to the tax levy. Adoption of the exclusion does not require voter approval of a referendum.

In addition, low income homeowners sixty-five or older in cities and towns that adopt the debt exclusion will be eligible for a new property tax exemption under G.L. Ch. 59 §5 Cl. 52. Eligible taxpayers will have their tax bills reduced by the difference between the increased property taxes due to adoption of the debt exclusion and the amount their water or sewer bill would have been higher if the exclusion had not been adopted, up to a maximum exemption of \$200. Subject to appropriation, cities and towns will be reimbursed by the Commonwealth for the full amount of the exempted taxes.

This legislation only applies to city or town property taxes. water and sewer districts with the power to levy property taxes are not subject to any limitations under Proposition 2½ and are able to recover debt service costs in their tax levies if they wish.

**GUIDELINES:**

**I. WATER AND SEWER DEBT EXCLUSION**

**A. Adoption of Exclusion**

Unlike the other debt exclusion provisions of Proposition 2½, which must be approved by the voters, the new exclusion from the levy limit for water and sewer debt service may be adopted by a vote of the board of selectmen, the town council or the city council, with the mayor's approval where required by law.

A municipality has the choice of excluding all or part of (1) its total water and sewer debt service, raising all property owners' taxes, and lowering total water and sewer charges correspondingly; or (2) only the residential share of its water and sewer debt service, raising that amount of extra taxes only from residential property owners, and lowering residential water and sewer charges by a corresponding amount. In the case of municipalities where water or sewer service is provided by an independent entity, such as a water and sewer commission under G.L. Ch. 40N or a special act, all or part of only residential debt service may be excluded, and only residential taxes and user charges will be adjusted to reflect the exclusion.

The vote to adopt the exclusion must specify whether it will apply only to residential users and taxpayers or to all. If the exclusion will apply only to a part of the total debt service, or only a part of the residential share of the debt service, the vote must specify what part will be excluded. The partial exclusion may be expressed as either a percentage or as a specific dollar amount of the total debt service, or of the residential share of the debt service.

Once adopted, the scope, percentage or amount of the exclusion will remain the same unless and until changed by a new vote of the board of selectmen, town council or city council, with the mayor's approval where required by law.

The cost of the excluded water and sewer debt service, or of the residential share of such debt service, will be recovered from taxpayers whether they are served by the municipal water and sewer systems or not; only users of the water and sewer systems will get an offsetting benefit through a reduction in user charges. Adoption of the exclusion may therefore be inappropriate in municipalities with a significant number of taxpayers not served by the water or sewer systems.

**B. Calculation and Certification of Exclusion Amount**

Total water and sewer debt service is the municipality's ion of any water and sewer assessment by a regional entity, such as the Massachusetts Water Resource Authority (MWRA), attributable to regional water and sewer debt service plus the municipality's own debt service net of betterments and state and federal reimbursements on bonds issued for water and sewer projects. The exclusion applies to all or part of the water and sewer debt service, or to the residential share of it, that is payable in the current fiscal year and was not recovered from property taxes in fiscal year 1993.

This means that the exclusion will apply to debt service, or the residential share of the debt service, on all bonds for water and sewer projects that are issued after FY93, since none of the debt service on such bonds was recovered from local taxes in FY93. For water and sewer debt that was outstanding in FY93, the municipality may exclude such debt service in subsequent fiscal years if its user charges in FY93 were equal to or greater than the amount of the FY93 net debt service. If the FY93 water and sewer user charges were less than the amount of the net debt service, the exclusion on account of the debt outstanding in FY93 will be limited to the amount of the user charges.

For those cities and towns that elect to exclude only the residential share of their water and sewer debt service, the residential share may be calculated by multiplying the total -water and sewer debt service by the ratio of residential water and sewer bills divided by total water and sewer bills.

The municipal water and sewer commissioners, or other rate-setting body, must certify annually to the board of assessors the amount of the exclusion.

**C. Reduction of Water and Sewer Charges**

Each year, the municipal rate-setting body must reduce water and sewer charges by the amount of the additional taxes assessed on account of the exclusion and certify to the assessors that such a reduction has been made. If the municipality is only excluding the residential share of its water and sewer debt, then it must reduce only the residential water and sewer charges by the amount of the additional taxes assessed. Residential water and sewer charges are those that are assessed against parcels t at are classified and taxed as Class One, residential, - property by the assessors.

We have been advised that certain federal grants for water and sewer improvements may require the recovery of all water and sewer operating costs through user charges. municipalities that are recipients of federal water and sewer grants, or belong to regional entities such as the MWRA that receive them, should determine if their water and sewer charges are subject to such requirements and, if so, ensure they are not reduced through use of the debt exclusion to a level that might endanger grant compliance.

**D. Effect on Residential Tax Rate**

In a municipality that chooses to exclude only the residential share of its water and sewer debt service, the additional taxes raised on account of the exclusion must be assessed entirely against the residential class, regardless of whether the city or town has been using a single tax rate or multiple tax rates.

**EXAMPLE**

Yourtown, which adopted the exclusion for 100% of the residential share of its water and sewer debt service, has a total assessed valuation of \$1,000,000,000, and its levy limit before the exclusion is \$10,000,000. The residential share of the total taxable valuation is 80% (\$800,000,000) and the residential share of the tax levy is 70% (\$7,000,000) before the exclusion is taken into account, implying a residential tax rate of \$8.75 per \$1,000 of value. The exclusion amount is certified by the water or sewer commissioners to be \$500,000 for the current fiscal year. After adding in the exclusion amount, the total amount of taxes to be paid by the residential class is \$7,500,000, implying a residential tax rate of \$9.38 per \$1,000 of value.

<u>Res. Taxes</u>	<u>Res.</u>	<u>Levy %</u>	<u>Tax Rate</u>
Without \$7,000,000		70%	\$8.75

## Exclusion

With	\$7,500,000	71.42%	\$9.38
Exclusion			

### **E. Municipalities with Independent Commissions**

Municipalities in which water or sewer service is provided by an independent water and sewer commission or other independent entity may use the exclusion under paragraph (n) only by entering into an agreement with the independent entity that provides the service. If the independent entity refuses to enter into such an agreement, the municipality cannot make use of the exclusion.

Where an independent entity provides the water and sewer service, only the residential portion of the water and sewer debt service excluded. The rate-setting body of the independent entity must certify annually the amount of the excludable residential debt service to the municipality, which assesses the additional taxes against the residential class, and pays over the money without appropriation to the entity. The agreement may permit the municipality to withhold from the tax amounts payable to the independent entity reasonable compensation for costs incurred by the municipality in carrying out the agreement.

### **F. Reporting of Exclusion**

#### **1. Adoption**

A city or town adopting the water and sewer debt exclusion must notify the Bureau of Accounts by submitting a "Notice of Acceptance: Water and Sewer Debt Exclusion", with the tax rate recapitulation sheet in the first year the exclusion will be in effect. Cities and towns in which water or sewer service is provided by an independent entity must also submit a copy of their agreement with the entity.

If a city or town votes to change the scope, percentage or amount of its exclusion in a subsequent fiscal year, the new vote will have to be submitted with the tax rate recapitulation for that subsequent year.

#### **2. Annual Certifications**

In addition, the assessors must submit the following certifications by the rate-setting body of the municipality, or independent entity, to the Bureau of Accounts each year with the tax rate recapitulation:

- a. The amount of the exclusion, and
- b. The amount by which water and sewer charges are lower on account of the exclusion.

## **II. SENIOR CITIZEN WATER AND SEWER EXEMPTION**

### **A. Adoption of Exemption**

A new property tax exemption is available to qualifying, elderly homeowners in those cities and towns that adopt the water and sewer debt exclusion set forth in paragraph (n) of G.L. Ch. 59 §21C. This water and sewer exemption becomes available automatically in any municipality that adopts the debt exclusion. The exemption itself does not require local acceptance, nor is it available in municipalities that do not adopt paragraph (n).

### **B. Eligibility Requirements**

AS with all G.L. Ch. 59 §5 personal exemptions, the qualification date for eligibility is July first of the fiscal year the taxpayer is seeking a water and sewer exemption. Unlike most personal exemptions, however, an eligible taxpayer may receive the water and sewer exemption in addition to any other exemption to which he or she may be entitled.

#### **1. Age and ownership**

The taxpayer must be 65 years of age or older, and own the property either alone, with a spouse, or with another co-tenant.

## 2. Domicile

The taxpayer must occupy the property as his or her domicile.

## 3. Financial Requirements

### a. Gross Receipts

If single, the taxpayer's gross receipts during the preceding calendar year from all sources must have been less than \$15,000; if married, the combined gross receipts of both husband and wife must have been less than \$18,000. In computing gross receipts, the taxpayer may deduct ordinary business expenses and losses, but not personal or family expenses.

### b. Whole Estate

The whole estate of the taxpayer, excluding the value of the domicile, except any portion which produces income, cannot exceed \$20,000, if single, or \$25,000, if married.

### c. Property Jointly owned by Non-Spouses

If the domicile is owned by the taxpayer as a joint tenant or a tenant in common with a person other than his or her spouse, the exemption is reduced to an amount which corresponds to the applicant's ownership interest in the property. For example, if a qualified taxpayer owns one-half of the property, he or she would be entitled to one-half of the exemption amount. Where more than one co-tenant applies and qualifies for the exemption, each tenant would be granted an exemption proportionate to his or her ownership share. For example, if the property is jointly owned by three persons, two of whom qualify for the exemption, each would be entitled to one-third of the exemption amount.

In addition, the gross receipts of each joint tenant or tenant in common from all sources must be less than \$15,000, if single, or \$18,000, if married, and the whole estate of each joint tenant or tenant in common cannot exceed \$20,000, if single, or \$25,000, if married.

## C. Application for Exemption

Taxpayers must file an annual application for the water and sewer exemption with the board of assessors, using State Tax Form 96W/S, "Application for Statutory Exemption", on or before December fifteenth, or three months from the date the actual tax bills are mailed, whichever is later.

## D. Assessors' Review of Applications

Based upon a review of all applications timely submitted to them, the assessors should compile a list of all applicants who satisfy the age, income and whole estate requisites for the water and sewer exemption. The assessors should promptly forward this list to the municipal, or independent entity, rate-setting body.

## E. Certification of Rate-Setting Body

Upon receipt of the assessors' list of qualified applicants, the rate-setting body must calculate and certify to the assessors the amount by which each person's water and sewer bill would have been greater if the debt service costs being raised in the property tax levy as an exclusion under paragraph (n) had been recovered from water and sewer rates.

## F. Amount of Exemption

The assessors should then calculate the amount of the water and sewer exemption by:

First, determining the amount by which the person's property tax actually increased due to the municipality's adding the residential portion of some or all of its water and sewer debt service costs to its tax levy.

Second, subtracting the speculative user charge bill increase certified by the rate-setting body from the actual tax increase.

The amount of the exemption equals this difference, or two hundred dollars, whichever is less.

#### EXAMPLE

A qualified person's property tax increased by \$250.00 as a result of the municipality's shifting the residential share of water and sewer debt costs from water and sewer rates to the tax levy. If the shift had not occurred, the person's water and sewer rates would have been \$110.00 higher than they actually were. The amount of the exemption for this would therefore be \$140.00 ( $\$250.00 - 110.00 = \$140.00$ ).

#### **G. Processing of Exemption**

After calculating the amount of the exemption to which each qualified applicant is entitled, the assessors must issue an exemption certificate (State Tax Form 147) to each qualifying applicant.

#### **H. Reimbursement from Commonwealth**

Cities and towns are to be reimbursed the full amount of all water and sewer exemptions granted. Subject to appropriation, the Commissioner of Revenue will distribute to each city and town its full reimbursement amount based on the number and amount of abatements granted.

For a city or town to receive its reimbursement, the assessors must report annually to the Municipal Data Management and Technical Assistance Bureau the number of water and sewer exemptions granted and the total dollar amount exempted. This report is to be made on Form 97-R W/S, "Request for Reimbursement Water and Sewer Exemptions"

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The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

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